88- 1774

Supreme Court, U.S.
FILED
JUL 11 1988
JOSEPH F. SPANIOL, JR.
CLERK

NO.

IN THE

SUPREME COURT OF THE UNITED STATES

FOON L. WOO, Pro se

Petitioner

v.

UNITED STATES NAVY,

Respondent

PETITION FOR WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF
APPEALS FOR FEDERAL CIRCUIT

FOON L. WOO PRO SE
4629 South Boulevard
North Charleston, SC 29406
(803)747-5729

QUESTIONS PRESENTED FOR REVIEW

1. May Merit Protection Board judge reach a decision by hearing testimonies from one party only, and made remarks to discourage the other party in the middle of a trial?
2. May Merit Protection Board judge using his influence and power lead one party to take terms of other party in settlement?
3. May the outcome of this trial be used as a seal to cover government officers' wrong doing such a dereliction of duty?
4. May a lawyer betrayed his client by not telling the consequences of settlement?

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The appell, FOON L. WOO, PROSE, COMES NOW to appeal the decisions from the US Court of Appeals For Federal Circuit and Move to have a new trial forthis case base on the following grounds and questions:

One. Court decisions haveserved as a shield of criminal acts within the Navy.

two. Malpractice of my attorney.

Three.The Navy had violated the settlement.

Four. Administrative Judge in error.

Five. The case is a coverup, deceit and vengeance.

Six. Navy witness" perjury has not closed examinated by court.

Seven. Testimonies which I did not have a change to present in administrative judge's hearing.

The further presentation of these resons are as follows on next page:

ONE

Court DEcision in the case has been used to shield off investigation of disgraceful misrepresnetation of Navy manager. Carl Ziegler, a supervisor, let the community to beleive that he had an ENGINEER-IN-TRAINING license. It took a whole year to find out that he had never gained a passing grade in the exam for such license. The Navy was informed about it, Carl's several levels superiors had tried for a whole year to coverup and failed.

US Congressman Ravenel is hesitating to pursue further into this unprofessional behavior amongst these high ranking Navy managers because of the decision of this case wrongfully against me. Exhibit (1)

The judical system must not be used a shelters for such shameless government officers and inflicts severe damages to the reputation of the Civil Service.

TWO

Malpratice of my attorney TERRY ANN RICHSON, she hadample of time to prepafe my case, but she waited to the eve of the court hearing, and spent only the last part of the work day to hear from me about the entire story. The material were too much for her to digest in such short time. The next day, she in court, acted like a student taking a final exam without prepare for it. She did not make an attempt to prove that the witness was lying as I indicated to her. As a result purgry were taken as facts.

I requested to invite newspaper reporters to the hearing, my attorney advised me not to.

After the judge made adversary comments against me before my testimony began, I was in a confusion, she advised me to give up. The judge and my attorneyought to know that without knowing the facts from bothparties of the litigation proper judgment could not possibly rendered.

My attorney having her fee paid in advance

she sold me out. Exhibit (1)

THREE

The Agency used this case to seal the disgraceful misreprsentation case of a supervisor Carl Ziegler. Exhibit (2)

FOUR

After the AGENCY's witness's had completed testimoney and my few short answers to my attorney's questions, the Judge told the court reporter off the record and said that he had 23 years experience in law and that I was going to lose my case. Even I won, it was not good for me. He then adviced me to a settlement. My attorney explained to me that the Judge was about to rule against me so better take the settlement and leave. She did not tell me I could not UNDO the settlement after I accepted it. The judge had act as a salesman for the Agency, by using his power and influence he lead me to giveup. NO ONE ASKED HIM FOR SUCH REMARKS in the middle of a trial. He could not be fair without hearing my testimoney. His off record remarks deeply discouraged me.

FIVE

The case is the result of coverup,deceit and vengeance against me and tapayers.

In 1983, I discovered several projects assigned to me were already done by some private contractors. I reported.

Also in 1983, I reported several engineer-projects done by engineering manager to be in violation of the laws of physics. Instead of making correstions, managment transferred me to coverup the wrongdoing.

In 1984, in the new position, I discovered and reported a $2 million project, designed and construction completed in 1981, was never in operational.

In 1985, I contributed an article on Shipyard news paper to praise somebody for doing a good job, that aroused envy from engineer managment. They put up anonymous flyers on bulletin boards in the Engineering Building See Exhibit (3). I was told to keep in low profile, and that the Board of Directors were in meeting to deal with me.

Afterward, I was transferred again; this time I lost my job as a senior mechanical engineer after 15 years of working experience, and became an environmental engineering trainee.

I cafried on as an engineer in environmental and finished several complicated engineering projects. My work was considered good. See Exhibit (4). My performance was evaluated SATISFACTORY in February 1986.

In March 1986, the Congressional Inquiry on the $2 million steam turbine was in the Shipyard, John Sneed, the supervisor and the only witness against me in this case, sent me to interview for a new job which I did not ask for.

On 30 May 1986, I discovered Captain Finger of USS Marshieldtried to cover up his oil spill into the Cooper River. My work and my report were definitly having merit, but someone had no knowledge of the incident rewrote my report eliminated the oil spill violation to cover for the Navy Captain and stole my credit of the discovery.

I was approached in the engineering office rest room and asked if oriental women were sideways? He was a senior engineering technician in his 40s. On 5 Febraury 1986, while in working hour, I was invited to see Exhibit (5) a magazing showing what the oriental woman look like. I thought it was improper to read such nude pictures, I borrowed it and walked away. Everyone was laughing behind me and seemed to enjoy. A week later, the magazine owner, under pressure from managers, visited me three city blocks from his office demanded his dirty book back and grapped me by the arm, called me "Chinaman" in front of my office secretary.

The government witness repeatedly asked me not to report any more wrong doings in the shipyard, otherwise I would lose management' support.

On 15 October 1986, under pressure from the US Congress, the shipyard got the $2 million steam turbine into operational, after 6½ years it was constructed. The next day, I got UNSATISFACTORY WARNING.

15 October 1986 was a magic day, before that day my performance wass all right. My work on complicated engineering project was good. See Exhibit (4). After that day, 100 percent of my work was bad. Not a single thing I did was considered to be right! The work was not difficult, and the work could be done by a new high school student! It was amazing for a man in normal condition to do things right before certain day; and to do everything and anything wrong after that certain day.

After 16 October 1986, no new assignments were given to me except doing office boys' work such as delivering letters, got soft drinks for somebody in the office. This kind of dailyroutine last until the end of my employment with the government.

SIX

I had written reply to the charges against me to the Navy and to the court, but my attorney did not used to confront the witness lying under oath. The material

were too numerous, that it is easier to confront with him in a new trial.

SEVEN

Evidents I present here indicate that the Shipyard management is not efficient. In order to coverup, the shipyard rulers decided to remove me not because my work was bad. They had tried continuous persecutions in a hope to force me to leave. I once went to a psychiatrist for help in 1984, and in the same year, I suffered severe stomach pain. Doctors had hard time to find out the reason of my pain until they knew my situation in my employment.

I came to this country from Hong Kong in 1961. I worked for my father in his small store for a year, and then went to New York worked as busboy and waiter to save money for education. When I got into college, I worked half-time as bartender and waiter in restaurants. It took me some 9 years to finish my college. When

I was in college, I was active in public affairs, and I was an honor student. I am a member of Pi Tau Sigma, a national honorary mechanical engineering student soceity. I was one of very few students who had successfully took and passed the Engineer-In-Training Exam before graduating from junior college. I started work for the Navy as a student engineer in 1969 before I graduated from California State University, Los Angeles in 1971. I continued my college education at night, and have never left college, except in few occasions when college was not closeby. I took correspondence courses.

In 1983, Engineer Manager Mr. Strock said that I was the hardest worker in the engineering building where some 120 persons work. In the same year, one time I worked 7 days a week, because shortage of engineers and the heavy work load, I worked over time everyday until managers stopped me. I made good engineering recommendations to stop

the engineering design on bldg 88 pump house and saved the government one half millon dollars that the engineering manager very much appreciated. Thag project was not even my project. I came to intercede before somebody did it wrong.

I have accumulated 1,300 hours sick leave while John Sneed had none. He was caught taking leave without turning in leave slip in 1986. He had a fist fight with his man in office in working hour. Frequently, he made me take a whole day on sick leave while I asked for less than 4.hours. This explained why I took more sick leaves in 1986 than any other years.

EIGHT

Conclusion I worked to support myself though college. I graduated from college at the age of 36. I am proud of my education, and I am proud of my work. No one can prove that I do not like my profession. I am a licensed professional mechanical engineer, and I am a licensed contractor in air conditioning, heating and ventilating

by the State of California. Good professional reputation is a must.

My grandfather worked to his last day in this country, and so was my father. My mother took over my father's store after his dead. She carried 50 to 70 pounds of stock in and out of the store that made people laughed at her. I inherited such hard working habit, and went to school week days worked weekends. I won the remarks from at least three hostile engineer managers including John Sneed that I work very hard. The retired Public Works Officer Capt. Schumat said I was a good engineer. My neighbors said that I am a good man, John Sneed said that too.

A good man, a hardworking man, a man on the job for 16½ years and suddenly being accused for ineffient and bad! It is a cover up ! It is a conspiracy. Only a new trial will reveal the truth.

I move the court to reopen this case for a new trial. Newspaper reporters and the general public be invited to the hearing.

Charleston, South Carolina

John L Woo Pro Se

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*The originals do not fit the dimension requirements, so the re-typed copies are used.

Three copies of the original size are submitted with this petition to the Clerk of The Supreme Court of the United States

CONGRESS OF THE UNITED STATES

HOUSE OF REPRESENTATIVES

WASHINGTON, DC 20515

June29,1988

Mr. Foon L. Woo

4629 SouthBoulevard

North Charleston, SC 29406

Dear Mr. Woo,

Enclosed is a letter just received from the Naval Shipyard in response to my inquiry for you. While I regret this information is not what you had hoped, be assured it was a pleasure to check into this matter for you in an effort to be of help.

With every good wish,

Arthur Ravenel, Jr.

EXHIBIT (1)

The Honorable Arthur Ravenel, Jr.

House of Representatives

334 Meeting Street, Suit 640

Charleston, SC 29403

In reply refer
12711
Ser150.1/411

27 Jun 1988

Dear Mr. Ravenel:

This responds to your letter of May 27,1988 to Captain George F. Lisle, Inspector General Charleston Naval Base, regarding Mr. Foon L Woo, which was forwarded to me for a direct response to you.

On December 8, 1986, Mr. Woo received a notice of proposed separation-inefficiency based on unsatisfactory performance of his position as Engironmental Engineer, GS-11, in the Environmental Protection and Engrgy Conservation Division of the Public Works Department. After consideration of evidence presented in the case, the public Works Officer found that Mr. Woo had not performed the critical elements of his position acceptably and on January 23, 1987 issued a decision letter to effect his separation-inefficiency, effective February 6, 1987.

16 EXHIBIT (2)

Mr. Woo appealed the separation-ineffieieny to the Merit Systems Protection Board on 7 February 1987. A hearing was convened on May 12, 1987 and Mr. Woo was represented by Counsel. During the second day of the the hearing, a settlement was reached by the parties. The terms of the settlement agreement included, among other things, that Mr, Woo would resin his position for personal reasons and waive all hearing, and appeal rights under MSPB, EEOC and other applicable regulations. Action was then taken to cancel the separation-inefficiency action and replace it with a resignation "for personal reasons" Mr. Woo, nevertheless, petitioned for review of the MSPB initial decision, dated May 14, 1987, which dismissed the appeal based on the settlement agreement. The Board denied Mr. Woo petition for review because it did not meet the criteria for review set forth in 5 CFR S1201.117. However, The Board reopened the case on its own motion. The initial decision was affirmed, as modified. The Board's

examination of Mr. Woo's petition for review was primarily to explore his untimely allegations that the Administrative Judge acted improperly during the course of the hearing. Mr. Woo then sought to have the action overturned in the Court of Appeal for the Federal circuit. By Judgment dated April 13, 1988, the action was affirmed by the Court of Appeals.

With regards to Mr. Woo's basic allegation that a GS-12 Supervisor Mechanical Engineer misrepresented himself to have an Engineer-In-Training license (EIT), an investigation of this claim found it to be untrue. The engineer was already a GS-12 at another command when he was hired by the shipyard. His application made no claim of his having an EIT license, nor was as EIT license a requirement to be qualified for the position.

A review of Mr. Woo's other compaints reveals they were false, distorted, or frivolous. There is no evidence of any improprieties by the shipyard or its managers/supervisors towards Mr. Woo.

I hope this information will assist you in responding to Mr. Woo.

Signed D.H.HInes Capt.

Letter to the Editor 2/25/85

Editor:

The Seabees built a small house at a parking lot near the Reynolds Avenue gate in less than four months. The work is commendable in workmanship and its efficiency. I have witnessed the entire project being done. A similar project could have required more than a year and a half to get started by engin engineers. F.L. WOO (engineer)

MEMORANDUM Date: 03/20/85

From: P.O.F.A.

To: all P.W. engineering disciplines

Subj: All Work requests that cannot be completed by the E.C.D. given by their supervisors shall give the said work requests to F. Woo(engineer--ext2207) so he can distribute them to the Seebees for quick completion by the proper date. Your cooperation is needed!!!

Thank You

P.O.F.A.(Pass Office Fans Assoc.)

 EXHIBIT(3)

MEMORANDUM OF CALL

Previous editions usable

TO:

Woo

☐ YOU WERE CALLED BY– ☒ YOU WERE VISITED BY–

Carter

OF (Organization)

☐ PLEASE PHONE ▶ ☐ FTS ☐ AUTOVON

☐ WILL CALL AGAIN ☐ IS WAITING TO SEE YOU

☐ RETURNED YOUR CALL ☐ WISHES AN APPOINTMENT

MESSAGE

John said you did a real good job on the dredging permit application.

RECEIVED BY	DATE	TIME
[illegible]	12/10	1115

63-110 NSN 7540-00-634-4018 STANDARD FORM 63 (Rev. 8-81)
Prescribed by GSA
FPMR (41 CFR) 101–11.6
USGPO 1984-421-529/411

EXHIBIT (4)

20

Oriental Pu.

A PARLIAMENT PUBLICATION • VOLUME 1 NUMBER 2

EXHIBIT (5)
21

UNITED STATES OF AMERICA

MERIT SYSTEMS PROTECTION BOARD

ATLANTA REGIONAL OFFICE

FOON L. WOO)
V) case no AT04328
DEPARTMENT OF THE NAVY) 710327

SETTLEMENT AGREEMENT FOR FOON L. WOO

Pay No. 340-36981

This is to memorialize settlement between Foon Lip Woo and the Charleston Naval Shipyard. Foon Lip Woo submits his resignation and waives all hearing and appeal rights under the Merit System Protection Board (MSPB) and the Equal Employment Opportunity Commission(EEOC), or any other applicable reuglations in consideration of the following:

(1) The Charleston Naval Shipyard, hereinafter the Agency, provides Mr. Woo a form SF-50 which indicates exclusively that he resigned his employment for personal resons.

(2) The Agency will designate the Industrial Relations Department, Employee Relations Division to be the sole sontact for prospective

employers and the employee/labor relation specialists shall be instructed to inform prospective employers that Mr. Woo resigned for personal reasons. A written instruction will be forwarded to the Department of Public Works that all references concerning Mr. Woo shall be forwarded to the Industrial Relations Department, Employee Relations Division. That instruction shall include a prohibition for any telephonic or written references from the Public Works Department about Mr. Woo.

(3) Mr. Woo may apply for federal employment only if his entire personnel file, circumstances of termination, and supervisory comments shall be fully disclosed to any prospective federal employer.

Signed by: Linda M. Howard, Agency Representative

Terry Ann Richson, Appellant's representative

Roscoe E. Long, Administrative Judge

Merit Systems Protection Board

Foon L. Woo, Appellant May 13, 1987

UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

88-3036

FOON L. WOO, PETITIONER, V.

THE DEPARTMENT OF THE NAVY, RESPONDENT.

DECIDED: April 13, 1988

Before SMITH, CIRCUIT JUDGE, NICHOLS, SENIO CIRCUIT JUDGE, and BISSELL, CIRCUIT JUDGE.

PER CURIAM.

DECISION

The final decision of the Merit Systems Protection Board (board), Woo v. Department of the Navy, 35 M.S.P.R. 317 (1987), affirming, as modified, the initial decision of the administrative judge (AJ) which dismissed the appeal of Foon L. Woo (Woo) due to a settlement agreement reached by the parties, is affirmed. OPINION

Woo appealed his removal by the Department of the Navy(agency) to the board. During the hearing, after the presentation of the evidence on the charges, but before Woo's presentation of evidence on his affirmative

defenses, the parties agreed to settle the case. Id. at 318. TheAJ found the settlement was voluntarily entered into, was lawful on its face, and served to remove the appeal from the board's jurisdiction. The AJ entered the agreement into the record and dismissed the appeal. Id. at 318-19.

Woo filed a pettion for review with the board which was denied. However, the board reopened the case on its own motion to consider Woo's allegations concerning bias or impropiety by the AJ. The board found that the AJ had not acted improperly in conducting the hearing, and affirmed the initial decision dismissing the appeal. Id. at 321.

Woo alleges that the agency's witness committed perjury and that the charges against him were not supported by substantial evidence. Both of these allegations go to the merits of his case. What Woo seems not to understand is that the settlement agreement governs thecase

since he signed it. The only question before this court is whether the board abused its discretion in dismissing his appeal based on the existence of the settlement agreement. "'One who attacks a settlement must bear the burden of showing that the contract he has made is tainted with invalidity, either by fraud practiced upon himor by a mutual mistake under which both parties acted."' Asberry v. United States Postal Serv., 692 F. 2d 1378, 1380 (Fed. Cir. 1982), quoting Callen v. Pennsylvania R.R., 332 U.S. 625, 630 (1948)). Woo has not made the requisite showing of fraud or mutual mistake. In fact, he did not even mention the settlement agreement in his appeal to this Court.

Woo'sallegations of bias or impropriety by the AJ were properly rejected by the board. Woo never identified particular actions or statements by the AJ to support his charges. The board reviewed the transcript and found only two instances that

might have supported a charge of bias. It then explained why the AJ's statements were not improper. We discern no error in these findings.